IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 39 OF 2005.

M/s Shree Daneshwari Traders,
a partnership firm
having its business at Margao, Goa,
represented by its partnership
partner B. Shashikanth,
resident of Margao, Goa. .... Applicant.

Versus

1. Mr. Sanjay Jain,
son of Jothraj Jain,
major in age,
married, business,
having place of business at Margao
Goa.

2. State through
Public Prosecutor,
Panaji, Goa. ..... Respondents.

Shri S.S. Kakodkar, Advocate for the Applicant.

Shri Arun Bras de Sa. Advocate for the Respondent No.1.

CORAM; N. A. BRITTO, J.

DATE: 24th MARCH, 2005.

P. C.:

Heard Shri Kakodkar, the learned counsel on behalf of the applicant/complainant and Shri Arun Bras de Sa, the learned advocate on behalf of the respondent No.1/accused.

2. Leave to appeal against the dismissal of the complaint/acquittal of the accused under Section 138 of the Negotiable Instruments Act, 1881 is hereby granted.

3. Appeal to be registered forthwith.

N. A. BRITTO, J.

sl.

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CRIMINAL APPEAL NO. OF 2005.

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Shri S.S. Kakodkar, Advocate for the Applicant.

Shri Arun Bras de Sa. Advocate for the Respondent No.1.

CORAM; N. A. BRITTO, J.

DATE: 24th MARCH, 2005.

P. C.:

Heard the learned Advocates for both the parties.

2. After the dismissal of the complaint by the Order of the learned J.M.F.C. dated 14.10.04 the said complainant preferred a revision

application to the Court of Sessions, Margao. The said revision was filed within time. However, the said revision application was dismissed by the learned Sessions Judge by his Order dated 6.1.05 stating that the revision against the said Order of the learned J.M.F.C. was not maintainable. Hence the said complainant has preferred the present appeal. The learned Sessions Judge has noted that earlier the next date given in the said complaint was 6.1.05 and the said date was subsequently changed to 14.10.04 and admittedly it is on this date that the complainant was absent and consequently the complaint was dismissed and apparently for no fault of the complainant.

3. In view of the above, the Order of the learned J.M.F.C. dated 14.10.2004 is hereby set aside and the complaint is restored to file. Both the parties to appear before the learned J.M.F.C., Margao on 28th March, 2005 at 10.30 a.m.

N. A. BRITTO, J.

sl.